

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ERNEST SAENZ, et al.,

Plaintiffs,

vs.

No. CIV-08-1176 LH/LAM

**ATF TRUCKING, LLC and
JAMES LOVE,**

Defendants.

**ORDER GRANTING STIPULATED MOTION FOR
APPOINTMENT OF GUARDIAN AD LITEM (Doc. 63)**

THIS MATTER is before the Court on the Parties' *Stipulated Motion for Appointment of Guardian Ad Litem* (Doc. 63), filed May 6, 2010. In the motion, the parties state that a proposed settlement has been reached and the parties seek the appointment of Joleen Youngers as *Guardian Ad Litem* for J.S. and A.S., minor children, in this action to protect their interests with regard to the settlement. The motion also states that Defendants will bear the costs and fees of the *Guardian Ad Litem* . The Court has reviewed the motion, the record of this case, and applicable law, and **FINDS** that the motion should be **GRANTED** and that Joleen Youngers be appointed as *Guardian Ad Litem* for J.S. and A.S.

IT IS THEREFORE HEREBY ORDERED that the Parties' *Stipulated Motion for the Appointment of a Guardian Ad Litem* (Doc. 196) is **GRANTED** as follows:

1. Joleen Youngers is hereby appointed to serve as *Guardian Ad Litem* for J.S. and A.S., minor children in this action.

2. The *Guardian Ad Litem* shall exercise her independent and professional judgment in the performance of the following duties:

a. to investigate on behalf of the Court and to review the settlement of this case proposed by the parties to see whether the proposed settlement is fair and reasonable as it relates to J.S. and A.S. and is in the best interests of J.S. and A.S.; and

b. to report to the Court, in writing and orally at a hearing to be set at a later date, on (i) the outcome of her investigation and review, (ii) the fairness and reasonableness of the proposed settlement as it relates to J.S. and A.S., and (iii) whether the proposed settlement is in the best interests of the minor children.

3. The *Guardian Ad Litem* shall consider, in her investigation of the proposed settlement and report to the Court, the manner in which the settlement proceeds will be held and/or applied for the benefit of J.S. and A.S.

4. The fees and costs for services as *Guardian Ad Litem* shall be paid by Defendants as ordered by the Court.

5. J.S. and A.S. are already represented by counsel in this matter. This order appointing a *Guardian Ad Litem* does not contemplate the *Guardian Ad Litem's* representation of J.S. and A.S. as an advocate but, instead, her appointment is as an “arm of the Court.” The *Guardian Ad Litem's* responsibilities under this appointment are to the Court and not to the minor children.

6. This appointment of Joleen Youngers as *Guardian Ad Litem* is intended to convey upon her in this action all the immunities and privileges available to a *Guardian Ad Litem* as articulated by the New Mexico Supreme Court in *Collins v. Tabet*, 111 N.M. 391, 806 P.2d 40 (1991).

7. The *Guardian Ad Litem* shall have access to all medical records regarding J.S. and A.S. including, but not limited to, all counseling and dental records. The *Guardian Ad Litem* shall also have access to all of J.S.' and A.S.' medical bills.

8. The *Guardian Ad Litem* shall be entitled to participate in, and receive notice of, all proceedings in this action, and to receive copies of all documents filed in this action and all correspondence between the parties to this action.

9. Upon the entry of an order approving the proposed settlement, the *Guardian Ad Litem*'s appointment will automatically cease and she shall have no further or continuing duties to the Court or the parties pursuant to this appointment.

10. Joleen Youngers is hereby appointed as *Guardian Ad Litem* on behalf of the minor children J.S. and A.S.

IT IS SO ORDERED.

Lourdes A. Martinez
THE HONORABLE LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE